

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority hereby amends Chapter 102, “Entrepreneur Investment Awards Program,” Iowa Administrative Code.

These amendments update program definitions and the application process, allow the Authority to negotiate the award amount with a recipient service provider, increase the aggregate program cap on awards and establish a cap for individual awards, identify the acceptable uses of award funds, and change program eligibility criteria and competitive scoring criteria.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 20, 2016, as **ARC 2374C**. The Authority received public comments regarding the intended scope of allowable entrepreneurial support activities and the use of funds. The commenter indicated that the inclusion of the words “emerging and early-stage innovation companies” in subrule 102.5(4) and paragraph 102.6(1)“b” improperly narrows the scope of entrepreneurial support activities and limits the use of funds in that the purpose of the program described in rule 261—102.2(15E) is to “provide financial assistance to service providers that provide technical and financial assistance to entrepreneurs and start-up companies.” The commenter also posited that paragraph 102.6(2)“e” requires that an applicant’s service model be judged against a national service model.

The phrases in the proposed rules that the commenter has highlighted mirror the corresponding language in Iowa Code section 15E.362. The Authority has reviewed the comments and determined that the result of revising the rules based on the comments would be to promulgate amendments that are inconsistent with the corresponding statutory provision. Therefore, the Authority has not revised the language of the rules since publication of the Notice of Intended Action.

The Economic Development Authority Board adopted these amendments at the Board meeting held on March 29, 2016.

After analysis and review of this rule making, no negative impact on jobs has been found, and the Authority finds that providing financial assistance for providers of business development services will have a positive effect on job creation and growth.

These amendments are intended to implement Iowa Code section 15E.362.

These amendments will become effective June 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 261—102.1(15E) as follows:

**261—102.1(15E) Authority.** The authority for adopting rules establishing the entrepreneur investment awards program under this chapter is provided in ~~2012 Iowa Acts, House File 2473, division I~~ Iowa Code sections 15.106A and 15E.362.

ITEM 2. Amend rule 261—102.2(15E) as follows:

**261—102.2(15E) Purpose.** The purpose of the entrepreneur investment awards program is to provide ~~grants~~ financial assistance to service providers that provide technical and financial assistance to ~~covered~~ entrepreneurs and start-up companies seeking to create, locate, or expand a business in the state.

ITEM 3. Amend rule **261—102.3(15E)**, definitions of “Applicant,” “Deliverables” and “Iowa-based business,” as follows:

“*Applicant*” means a ~~service provider person~~ person applying to the authority for a grant financial assistance under the program.

“*Deliverables*” means the performance of duties or other obligations required of an applicant under a contract entered into with the authority in consideration for the receipt of ~~grant funds~~ financial assistance under the program. At a minimum, “deliverables” includes the continued maintenance of all initial eligibility requirements for the duration of a contract entered into under the program and may include

such other terms and conditions as the authority deems necessary to effectuate the legislative intent of the program or to protect the interest of taxpayers.

*“Iowa-based business”* means a service provider whose ~~domicile~~ principal place of operations is in Iowa and that is actively providing services to covered entrepreneurs business development services in the state.

ITEM 4. Adopt the following **new** definitions of “Business development services,” “Eligible entrepreneurial assistance provider” and “Financial assistance” in rule **261—102.3(15E)**:

*“Business development services”* includes but is not limited to corporate development services, business model development services, business planning services, marketing services, financial strategies and management services, mentoring and management coaching, and networking services.

*“Eligible entrepreneurial assistance provider”* or *“service provider”* means a person meeting the requirements of rule 261—102.6(15E).

*“Financial assistance”* means the same as defined in Iowa Code section 15.327.

ITEM 5. Rescind the definitions of “Covered entrepreneurs,” “Domicile,” “Expended funds” and “Service provider” in rule **261—102.3(15E)**.

ITEM 6. Amend subrule 102.4(1) as follows:

**102.4(1) Program description.** The program is designed to provide ~~grants~~ financial assistance to service providers meeting the eligibility requirements described in rule 261—102.6(15E). All awards of ~~grant funds~~ financial assistance must ultimately be approved by the board, and a contract must be entered into before ~~grant~~ funds will be disbursed. All contracts will specify the deliverables required in consideration for the provision of ~~funds~~ financial assistance.

ITEM 7. Amend subrule 102.4(2) as follows:

**102.4(2) Application and award procedures.** Eligible service providers may submit applications to the authority. The applications will receive an initial review to confirm program eligibility before being sent to the committee for a recommendation on funding. The committee will provide its recommendation to the board for a final determination on funding. The board may approve, deny, or defer each application for a ~~grant~~ financial assistance under the program. The board will consider applications for ~~funding on a first-come, first-served basis~~ financial assistance during the annual filing window described in subrule 102.4(5). The amount of financial assistance awarded to a service provider is within the discretion of the authority as determined by the board. If the board approves ~~funding for an award of financial assistance for a service provider~~, the authority will prepare a required contract specifying the terms and conditions under which ~~funds are~~ financial assistance is provided to the service provider.

ITEM 8. Amend paragraph **102.4(3)“c”** as follows:

c. The tracking and monitoring of the service provider’s performance under a program contract, including an analysis of whether the service provider’s deliverables meet all requirements of the contract and including an evaluation of the value added by the service provider to the businesses of ~~covered~~ entrepreneurs. The evaluation shall be provided by the corporation in furtherance of the program review and report required of the authority pursuant to Iowa Code section 15E.362.

ITEM 9. Adopt the following **new** subrules 102.4(5) and 102.4(6):

**102.4(5) Annual filing window.** In order to facilitate the competitive application and scoring process described in rule 261—102.6(15E), the authority and the corporation will accept applications for financial assistance only during the annual filing window. This filing window shall be from May 15 to June 1 of each calendar year. During the month of June, the authority and the corporation will process the applications and prepare them for consideration by the committee and the board at the first monthly meeting of the committee and the board following June 30 of each year. The authority may adjust the annual filing window dates under extenuating circumstances and will notify affected parties of such circumstances.

**102.4(6) Miscellaneous.** The authority may contract with outside service providers for assistance with the program. The authority may also make client referrals to eligible service providers regardless of the amount of financial assistance provided.

ITEM 10. Amend rule 261—102.5(15E) as follows:

**261—102.5(15E) Program funding.**

**102.5(1) Aggregate fiscal year limitation.** The authority will not award more than \$200,000 \$1 million in grants financial assistance under the program in any one fiscal year.

**102.5(2) Individual applicant limitation.** The authority will ~~limit the amount of program funds that any individual applicant may receive.~~ The amount awarded to an individual applicant shall equal the lowest of the following amounts: negotiate the amount of financial assistance to be provided to a service provider. However, the authority will not award more than \$200,000 to any one service provider in any one fiscal year.

*a.*—~~An amount equal to 25 percent of the applicant's total expended funds during the applicant's previous fiscal year.~~

*b.*—~~An amount equal to 100 percent of funds raised by the applicant in the previous fiscal year from private foundations, the federal government, local governments, financial institutions, or individuals.~~

*c.*—~~Two hundred thousand dollars.~~

**102.5(3) Program funding source and allocation.** Moneys for ~~grants~~ financial assistance under the program will be awarded from the moneys in the entrepreneur investment awards program fund created pursuant to Iowa Code section 15E.363. Moneys are deposited in this fund by the authority pursuant to Iowa Code section 15.335B. The amount deposited each year depends on the amount allocated for such purposes under Iowa Code section 15.335B.

**102.5(4) Use of grant funds.** An applicant receiving ~~grant funds~~ financial assistance under the program shall only use ~~such~~ the funds for the purpose of defraying operating costs actually incurred by the service provider in providing business development services to emerging and early-stage innovation companies in this state. Financial assistance provided under the program shall not be distributed to owners or investors of the company to which business development services are provided and shall not be distributed to other persons assisting in the provision of business development services.

**102.5(5) Sunset date.** ~~No grants will be awarded under the program after June 30, 2014, unless the program is extended by the general assembly.~~

ITEM 11. Amend rule 261—102.6(15E) as follows:

**261—102.6(15E) Eligibility requirements and competitive scoring process.**

**102.6(1) Eligibility.** In order to be eligible for a ~~grant~~ financial assistance under the program, an applicant must meet the requirements of this rule. ~~This includes meeting a list of objective criteria as well as a list of subjective criteria as follows.~~ A service provider applying to the program must meet all of the following criteria for eligibility:

*a.* The service provider must have its principal place of operations located in this state.

*b.* The service provider must offer a comprehensive set of business development services to emerging and early-stage innovation companies to assist in the creation, location, growth, and long-term success of the company in this state.

*c.* The business development services may be performed at the physical location of the service provider or the company.

*d.* The business development services may be provided in consideration of equity participation in the company, a fee for services, a membership agreement with the company, or any combination thereof.

**102.6(1) Objective criteria.** An applicant shall meet all of the following criteria:

*a.*—~~The applicant's expended funds total shall be at least \$500,000 during the applicant's most recent previous fiscal year. In order to establish that this criterion is met, the applicant may be required to provide financial information, payroll information, invoices, canceled checks, bank statements or other similar information.~~

*b.*—~~The applicant must provide services that meet the broad-based needs of covered entrepreneurs. In order to establish that this criterion is met, the applicant may be required to provide documentation substantiating the provision of such services. Such documentation may include strategic plans, operating~~

plans, marketing plans, budgets, audited financials, corporate minutes, articles of incorporation, operating agreements, or bylaws.

*e.*—The applicant must communicate and cooperate with other entities in the state offering similar services. In order to establish that this criterion is met, the applicant may be required to provide documentation demonstrating communication and cooperation. Such documentation may include contracts or memoranda of understanding with other entities or may include two or more affidavits of cooperation, signed by an officer of another entity with which the applicant is in cooperation and stating with particularity the manner and extent to which there is communication and cooperation. The authority reserves the right to make the final determination as to whether such another entity in the state offers similar services.

*d.*—The applicant must engage various funding sources for covered entrepreneurs. In order to establish that this criterion is met, an applicant may be required to provide documentation demonstrating the results achieved for covered entrepreneurs including amounts and types of funding sources successfully engaged for a reasonable number of recent clients or partners. Such documentation may also include the overall, lifetime success rate in engaging such funding sources.

*e.*—The applicant must communicate and cooperate with various entities for purposes of locating suitable facilities for covered entrepreneurs. In order to establish that this criterion is met, the applicant may be required to provide documentation demonstrating its efforts to locate such facilities for clients. Such documentation may include two or more affidavits of cooperation from local entities, signed by an officer of such an entity and stating with particularity the efforts undertaken to locate such facilities.

*f.*—The applicant shall be an Iowa-based business.

**102.6(2) Subjective criteria.** An applicant shall meet all of the following criteria:

*a.*—The business experience of the professional staff employed by the applicant. In order to allow assessment of this criterion, the applicant may be required to submit documentation of such experience. Such documentation may include résumés, curriculum vitae, and other professional biographical information.

*b.*—The business plan review capacity of the applicant's professional staff. In order to allow assessment of this criterion, the applicant may be required to submit documentation of such capacity. Such documentation may include project lists, work plans, or other resources reasonably necessary to assess capacity.

*c.*—The expertise of the applicant's professional staff in all aspects of business disciplines. If the information required pursuant to the criterion in paragraph 102.6(2) "a" is insufficient to allow assessment of this criterion, additional information may be required.

*d.*—The applicant's professional staff's access to external service providers including legal, accounting, marketing, and financial services. In order to allow assessment of this criterion, the applicant may be required to submit documentation of such access. Appropriate sources of documentation in this context will be determined on an ad hoc basis.

**102.6(2) Competitive scoring criteria.** The authority will award financial assistance on a competitive basis. In making awards of financial assistance, the authority will consider the following criteria:

*a.* The business experience of the professional staff employed or retained by the service provider. 25 points.

*b.* The business plan review capacity of the professional staff of the service provider. 15 points.

*c.* The expertise in all aspects of business disciplines of the professional staff of the service provider. 15 points.

*d.* The access of the service provider to external service providers, including legal, accounting, marketing, and financial services. 15 points.

*e.* The service model and likelihood of success of the service provider and its similarity to other successful service providers in the country. 15 points.

*f.* The financial need of the service provider. 15 points.

ITEM 12. Amend subrule 102.7(1) as follows:

**102.7(1) *Contract required.*** An applicant awarded ~~grant funds~~ financial assistance under the program shall enter into a contract with the authority for the receipt of such funds. The authority will include certain deliverables in the contract as recommended by the corporation and will delegate to the corporation the tracking and monitoring of all contract provisions. The corporation shall provide regular reports to the authority on the progress of the applicant and on the results of the tracking and monitoring. The authority will make the final determination as to compliance with the terms of the contract and will make the final determination as to whether and when to disburse funds to the applicant.

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